

FILED  
U.S. DISTRICT COURT  
DISTRICT OF WYOMING

SEP 19 2006

Stephan Harris, Clerk  
Cheyenne

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*Counsel for Petitioners*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WYOMING**

ANADARKO PETROLEUM CORPORATION

Petitioner,

v.

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, and ROBERT ROBERTS,  
in his official capacity as REGIONAL  
ADMINISTRATOR, REGION 8, UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY,

Respondents.

06 C V 235 *LB*

Case No. \_\_\_\_\_

**PETITION FOR REVIEW**

Pursuant to Rule 83.7.2 of the Local Civil Rules for the United States District Court for the District of Wyoming, Federal Rule of Appellate Procedure 15, and 5 U.S.C. §§ 701-706, Petitioner Anadarko Petroleum Corporation ("Petitioner") hereby respectfully petitions this Court for review

of the failure of the Environmental Protection Agency (“EPA”) to disapprove certain amended water quality standards promulgated by the Montana Board of Environmental Review (“MBER”), which were submitted to EPA Region 8 for approval on June 9, 2006. See Attachment A.

1. On May 18, 2006, MBER published a “Notice of Amendment (Water Quality)” in the Montana Administrative Record, 10 MAR 1247 (2006) (“Amendment”), reflecting MBER’s decision to amend Montana’s water quality standards as set forth in Administrative Rules of Montana 17.30.670.

2 Under the Clean Water Act and EPA’s regulations, EPA was required either to approve MBER’s Amendment within 60 days of receipt (which EPA did not do) or to disapprove it within 90 days of receipt. 33 U.S.C. § 1313(c)(2); 40 C.F.R. § 131.21(a)(1),(2). EPA did not disapprove the Amendment within this 90-day period, which expired on September 8, 2006.

3. EPA’s failure to disapprove MBER’s Amendment is a final agency action.

4. The Court has jurisdiction over this Petition for Review pursuant to 28 U.S.C. § 1331 and Rule 83.7.2 of the Local Civil Rules for the United States District Court for the District of Wyoming.

5. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(e) in that Respondent EPA is an agency of the United States, Respondent Robert Roberts is an officer or employee of the United States who is being sued in his official capacity as the EPA Regional Administrator of Region 8, and a substantial part of the events or omissions giving rise to the claim occurred in the State of Wyoming.

6. This petition is timely filed with the Court within six years of the date upon which EPA was required to disapprove MBER's Amendment, as required by 28 U.S.C. § 2401(a). Petitioner is an interested party because it conducts operations that may be affected by Montana's Amendment as a result of the State of Wyoming's issuance of permits for discharges from Petitioner's operations to interstate rivers in Wyoming.

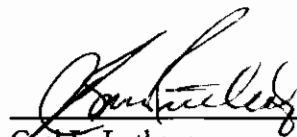
WHEREFORE, Petitioner demands judgment against Respondents as follows:

- A. This Court should order Respondents to disapprove the 2006 MBER Amendment accordance with 40 C.F.R. § 131.21(a)(2); and
- B. This Court should award Petitioner such other relief as the Court may deem appropriate.

DATED this 19<sup>th</sup> day of September, 2006.

:

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the above and foregoing was served on the undersigned by mailing the same via U.S. mail, postage prepaid, this 19 day September, 2006:

**Via Certified Mail:**

Hon. Alberto Gonzales  
Attorney General  
U.S. Dept. of Justice  
950 Pennsylvania Ave., NW  
Washington, DC 20530-0001

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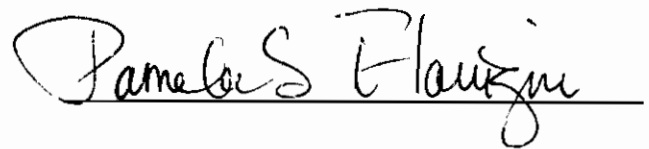
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A handwritten signature in cursive script, reading "Pamela S. Flauger", is written over a horizontal line.

# **ATTACHMENT A**



Montana Department of  
**ENVIRONMENTAL QUALITY**

Brian Schweitzer, Governor

P.O. Box 200901 • Helena, MT 59620-0901 • (406) 444-2544 • [www.deq.mt.gov](http://www.deq.mt.gov)

June 5, 2006

Mr. Robert E. Roberts  
Administrator  
U.S. Environmental Protection Agency  
Region 8  
999 18th Street - Suite 300  
Denver, Colorado 80202-2466

Re: Montana's Amendment of Nondegradation Requirements

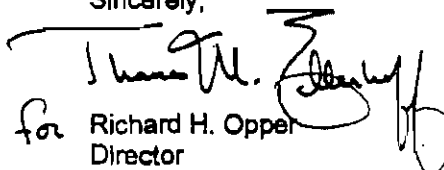
Dear Mr. Roberts:

The State of Montana is submitting revisions to its nondegradation requirements for review and approval by the U.S. Environmental Protection Agency (EPA), pursuant to § 303(c) of the federal Clean Water Act. On March 23, 2006, Montana's Board of Environmental Review (BER) adopted amendments to Montana's nondegradation requirements addressing electrical conductivity (EC) and sodium adsorption ratio (SAR) for the Tongue River, Powder River, and Little Powder River watersheds. The amendment of ARM 17.30.870(6) classifies EC and SAR as "harmful" parameters for purposes of determining significant changes in high quality waters. Under the amendment, any new or increased discharge of EC or SAR will be deemed significant if the ambient quality is 40% or above the applicable water quality standard.

The amended nondegradation requirements are being submitted to EPA according to the requirements of 40 CFR 131.6 and 131.20. Accordingly, I have enclosed a copy of the notice of proposed adoption and amendment, notice of extension of the comment period, notice of final amendment, and corrected notice of amendment, as they appear in Montana's Administrative Register, and a letter certifying that the amendment was adopted in accordance with State law.

If you have any questions or need additional information, please contact me at (406) 444-6815 or Claudia Massman at (406) 444-4222.

Sincerely,

  
for Richard H. Oppel  
Director

Encl.

cc: Bob Bukantis, Montana Department of Environmental Quality  
Bill Wuerthele, U.S. Environmental Protection Agency

RECEIVED

JUN 09 2006

USEPA RAS OFFICE

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